

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 115 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE R.BALIA.

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

DIGVIJAY CEMENT CO. LIMITED

Versus

COMMISSIONER OF INCOME-TAX

Appearance:

MR D.A. MEHTA, MR R.K. PATEL, MR. B.D. KARIA
For MR KC PATEL for Petitioner
MR BHARAT J. SHELAT, Instructed by
MR. MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE R.BALIA.

Date of decision: 31/01/97

ORAL JUDGEMENT (Per R.K.Abichandani,J.)

The Income Tax Appellate Tribunal has referred
for the opinion of this Court the following two
questions:-

1. "Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the assessee was not entitled to weighted deduction u/s 35B of the I.T Act, 1961 on expenses of Rs. 3,94,68,062/- covering 27 items mentioned in paragraph 5 of its order under reference?"
2. "Whether on the facts and in the circumstances of the case, the Tribunal was further justified in holding that the appellant was not entitled to interest of Rs. 30,116/- paid under Sec. 220(2) of the Act, as a revenue deduction?"

As regards question No.1, it has been pointed out by the learned Counsel for the assessee that all the 27 items mentioned therein are covered by various decisions of this Court against the assessee (Isabgul Export Corpn. Vs. CIT - 200 ITR 797; Parshuram Pottery Works Co.Ltd. Vs. CIT - 204 ITR 458; Isabgul Export Corpn. Vs. CIT - 205 ITR 227; Testeels Ltd. Vs. CIT - 205 ITR 230; CIT Vs Gaskets and Radiators Pvt.Ltd. - 192 ITR 509; and Parshuram Pottery Works Co.Ltd. Vs. CIT - 204 ITR 458). Applying the ratio of these decisions, we hold that the Tribunal was justified in holding that the assessee was not entitled to weighted deduction under Section 35B of the Act on the expenses covered by the 27 items mentioned in the said question. The question No.1 is therefore, answered in the affirmative against the assessee.

As regards question No.2, it is pointed out by the learned Counsel for the assessee that the question is covered by the decision of this Court in Saurashtra Cement and Chemical Industries Ltd. Vs. CIT - 213 ITR 523. Following the said decision, we hold that the Tribunal was justified in holding that the assessee was not entitled to interest of Rs.30,116/- paid under Section 220(2) of the Act as revenue deduction. The question No.2 is therefore answered in the affirmative against the assessee. The reference stands disposed of accordingly.
